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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,599	01/30/2004	Bernardo Ayala	BA01-01U	5201
37038	7590	01/12/2006		
BUHLER ASSOCIATES BUHLER, KIRK A. 1101 CALIFORNIA AVE. SUITE 208 CORONA, CA 92881			EXAMINER DAVIS, CASSANDRA HOPE	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,599

Applicant(s)

AYALA, BERNARDO

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7, 9, 11, 17, 18, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 9, the phrase "the variable power control mechanism" lacks antecedent basis.

3. Regarding claims 5, the phrase "or any other device that provides light when electricity is applied" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or any other device that provides light when electricity is applied"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Note similar language in claim 9 and 17, (or other artwork designed for viewing) and claim 11 and 18 (or other power supply that is capable of providing electrical power).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15, 17, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Watson, U. S. Patent 6,604,840.

6. Watson teaches an illuminated sign comprising a frame structure 12 capable of retaining a replaceable image/sign 8, a power storage device 44 located within the frame structure 12, a variable power control device (photoelectric light switch 70) located within the frame structure, and plurality of LED light sources 50 located in front of the image to shine light onto the image/sign 8.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-9 and 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson, U. S. Patent 6,604,840 in view of Sanders, U. S. Patent 6,568,109.

9. Watson teaches an illuminated sign comprising a frame structure 12 capable of retaining a replaceable image/sign 8, a power storage device 44 located within the frame structure 12, a variable power control device (photoelectric light switch 70) located within the frame structure, and plurality of LED light sources 50 located in front of the image to shine light onto the image/sign 8.

10. Watson does not teach the variable power control mechanism that varies the intensity of the LED light sources such that the intensity of the light source supplements ambient light.

Sanders teaches an illuminated sign comprising a frame/housing 1, light sources 3, switch 18 which can allow manual changing of the display for bright to dim or off and power supply in the form of a battery. Sanders also teaches a circuit board 8 can optionally contain a circuit that senses the value of a photo-detector 4 and adjust the brightness of the display lights 3 to compensate for ambient light. The preferred compensation is to make the display lights brighter in daytime or larger amounts of ambient

light to maintain visibility and to make it dimmer at night so that it does not glare. See column 3, lines 48-64.

With respect to claim 2, 16, and 22, since the applicant does not disclose that making the frame of wood, plastic, or metal solves any stated problem or is for any particular purpose, it appears that constructing the frame of any suitable material as taught by Watson would perform equally well in storing and displaying the picture/sign.

With respect to claims 3, 4, 11, and 18, Watson teaches the power source is a rechargeable battery. See column 3, lines 26-27.

With respect to claims 5, 12, and 19, Watson teaches the light source can be a LED, incandescent or other miniature lights. See column 3, lines 27-32.

With respect to claim 6, 9, 13, and 17, Watson teaches a sign is flat panel with indicia thereon.

With respect to claim 7, 14, and 20, Sanders teaches a circuit board for electrically connecting various electrical components.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone

number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cassandra Davis
Primary Examiner
Art Unit 3611

CD
December 9, 2005